

On March 5, 2007 appellant, then a 57-year-old city letter carrier tech, filed an occupational disease claim alleging that he developed osteoarthritis of the bilateral hips in the performance of duty. He stated that he first realized his condition on July 15, 2006 and attributed it to his employment on February 12, 2007. Appellant explained that his job required him to stand between 8 and 10 hours per day and walk between 6 and 10 hours per day as well as

to walk up and down stairs, enter and exit his mail delivery vehicle while carrying a heavy mailbag. He did not stop work but accepted a modified assignment effective March 8, 2007. The employing establishment controverted appellant's claim.

On March 19, 2007 the Office advised appellant of the type of evidence needed to support his claim.

Thereafter, appellant provided a February 26, 2007 note from Dr. Thomas E. Miller, a Board-certified orthopedic surgeon, stating that he could work light duty with no repetitive lifting or carrying loads weighing greater than 20 pounds. In a February 21, 2007 note, Dr. Miller advised that appellant performed physical work tasks including lifting and carrying and delivering mail. He explained that appellant's pain was primarily concentrated in the right hip and had progressively worsened over the past year. Dr. Miller's physical examination revealed restricted internal rotation of both hips and x-ray testing showed primary osteoarthritis in both hips with joint space narrowing and some cystic changes. He diagnosed "osteoarthritis in a 58-year-old working man." In a March 7, 2007 duty status report, Dr. Miller noted appellant's work restrictions.

In a March 29, 2007 report, Dr. Peter A. Eriksson, a Board-certified family practitioner, noted appellant's history of right hip pain beginning on July 6, 2006, aggravated by walking, turning and twisting. He stated that appellant underwent an injection for his right hip pain on February 21, 2007 but that two days later appellant began to develop left hip pain. Dr. Eriksson diagnosed arthritis of the hips and left hip pain, noting no known preexisting conditions. He stated that appellant was able to work with restrictions.

In an April 9, 2007 statement, appellant explained that his town of residence was small and that it was difficult to obtain doctor's appointments. He stated that Dr. Eriksson made an appointment for him to see an orthopedic specialist on June 7, 2007. In an undated statement, appellant explained that his job duties included casing mail, pulling down flats in delivery sequence and loading them into trays, handling up to 500 pounds of flats each day, walking up to eight miles per day in all weather conditions, delivering mail and packages up three flights of stairs in apartment buildings, entering and exiting his delivery vehicle between 30 and 60 times per day and standing up to 10 hours per day. He explained that he first noticed hip problems on July 6, 2006 and that his pain and stiffness progressively worsened. Although Dr. Miller gave appellant a shot of cortisone, which improved his right hip pain, appellant explained that his pain transferred to the left hip and that Dr. Miller could not give him a second shot as it could cause a heart attack. On April 27, 2007 appellant stated that he had continued left hip pain and stiffness. He also submitted job descriptions and a medical journal article discussing osteoarthritis.

In an April 25, 2007 report, Dr. Eriksson noted appellant's complaints of continuing left hip pain after a right hip injection. He stated that appellant had used Celebrex but had not noticed improvement. Dr. Eriksson diagnosed arthritis of the hips and left hip pain and stated that appellant was able to work with restrictions.

By decision dated June 4, 2007, the Office denied appellant's occupational disease claim on the grounds that the evidence of record did not establish a causal relationship between the accepted employment factors and appellant's diagnosed condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged, and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

An occupational disease or injury is one caused by specified employment factors occurring over a longer period than a single shift or workday.⁴ The test for determining whether appellant sustained a compensable occupational disease or injury is three-pronged. To establish the factual elements of the claim, appellant must submit: "(1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the factors identified by the claimant."⁵

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.⁶ The opinion of the physician must be based on a complete factual and medical background of the claimant⁷ and must be one of reasonable medical certainty⁸ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *D.D.*, 57 ECAB 734 (2006).

⁵ *Michael R. Shaffer*, 55 ECAB 386, 389 (2004), citing *Lourdes Harris*, 45 ECAB 545 (1994); *Victor J. Woodhams*, *supra* note 3.

⁶ *Conard Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁷ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁸ *John W. Montoya*, 54 ECAB 306 (2003).

⁹ *Judy C. Rogers*, 54 ECAB 693 (2003).

ANALYSIS

The Board finds that appellant worked for the employing establishment as a city carrier and performed physical duties including lifting and carrying mail in flats and sacks, entering and exiting his postal delivery vehicle, and standing and walking for extended periods of time. However, appellant has not met his burden of proof in establishing that his diagnosed osteoarthritis in both hips was causally related to these employment factors.¹⁰

In support of his claim, appellant submitted notes from Dr. Miller and reports from Dr. Eriksson. In his February 21, 2007 note Dr. Miller diagnosed bilateral hip pain which had progressively worsened over the past year. He advised that appellant performed physical tasks including lifting, carrying and delivering mail. However, Dr. Miller did not provide a detailed explanation of appellant's employment factors or their relationship to his diagnosed condition. For example, he did not indicate the weight of the loads appellant lifted or the distance or duration of appellant's walking during a typical work shift. Moreover, Dr. Miller did not render an opinion on causal relationship between particular work factors and a diagnosed medical condition. The Board has held that a medical report which does not contain an opinion on causal relationship is of no probative value on that issue.¹¹ Accordingly, Dr. Miller's February 21, 2007 note is insufficient to establish that appellant developed an occupational disease in the performance of duty. Likewise, Dr. Miller's February 26, 2007 note setting forth appellant's lifting restriction did not address causal relationship. Thus the Board finds that Dr. Miller's February 21 and 26, 2007 notes are insufficient to establish appellant's occupational disease claim because the physician did not address causal relationship.

In March 29 and April 25, 2007 reports, Dr. Eriksson noted a history of progressively worsening bilateral hip pain. In his March 29, 2007 report, Dr. Eriksson advised that the hip pain had been aggravated, since approximately 2006, by walking. Dr. Eriksson diagnosed arthritis of hips and left hip pain but did not render an opinion on causal relationship. Although he noted that appellant seemed to experience aggravated pain after walking he did not address appellant's walking at work and whether such walking caused or aggravated a particular medical condition. On April 25, 2007 Dr. Eriksson noted appellant's complaints of continuing left hip pain and diagnosed arthritis of the hips but again did not identify any employment factors or offer an opinion with detailed explanation and rationale establishing a causal relationship between appellant's diagnosed condition and his employment factors. As noted above, a medical report which does not contain a physician's rationalized opinion on causal relationship is not probative on that issue. Because Dr. Eriksson did not address causal relationship, his reports are insufficient to establish appellant's occupational disease claim.

¹⁰ Following the Office's June 4, 2007 decision, appellant submitted additional medical evidence. The Board, however, notes that it cannot consider this evidence for the first time on appeal. The Board's review is limited to the evidence in the case record at the time the Office made its final decision. 20 C.F.R. § 501.2(c).

¹¹ See *A.D.*, 58 ECAB ____ (Docket No. 06-1183, issued November 14, 2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

Appellant also submitted a medical journal article discussing osteoarthritis. However, this is also insufficient to establish his claim. The Board has held that newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing causal relationship as they are of general application and are not determinative of whether the specific condition claimed was causally related to the particular employment factors alleged.¹²

Accordingly, the Board finds that appellant has not met his burden of proof in establishing that he developed an occupational disease in the performance of duty.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he developed an occupational disease in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the June 4, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 8, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹² D.E., 58 ECAB ____ (Docket No. 07-27, issued April 6, 2007).